

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

ATS TREE SERVICES, LLC

Plaintiff,

v.

Case No. 2:24-cv-01743-KBH

FEDERAL TRADE COMMISSION;
LINA M. KHAN, in her official
capacity as Chair of the Federal Trade
Commission; and REBECCA KELLY
SLAUGHTER, ALVARO BEDOYA,
ANDREW N. FERGUSON, and
MELISSA HOLYOAK, in their official
capacities as Commissioners of the
FTC,

Defendants.

**UNOPPOSED MOTION OF PROFESSORS WILLIAM ARAIZA, JEFFREY LUBBERS,
AND PETER M. SHANE FOR LEAVE TO FILE A BRIEF AS AMICI CURIAE IN
SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR STAY
OF EFFECTIVE DATE AND PRELIMINARY INJUNCTION**

Professors William Araiza, Jeffrey Lubbers, and Peter M. Shane ("proposed amici") respectfully seek the Court's leave to file the accompanying brief as *amici curiae* in support of Defendants' opposition to Plaintiff's motion for stay of effective date and preliminary injunction. The motion is unopposed.

Proposed *amici* are leading legal academics and experts specializing in the fields of administrative law and statutory interpretation. Proposed *amicus* William Araiza is the Stanley A. August Professor of Law at Brooklyn Law School. Proposed *amicus* Jeffrey Lubbers is Professor of Practice in Administrative Law at American University, Washington College of Law. Proposed

amicus Peter M. Shane is the Jacob E. Davis and Jacob E. Davis II Chair in Law Emeritus at Ohio State University, Moritz College of Law.

A “district court’s decision to accept or reject an *amicus* filing is entirely within the court’s discretion.” *In re Nazi Era Cases Against German Defendants Litigation*, 153 Fed. App’x 819, 827 (3d Cir. 2005). A district court “may grant leave to appear as an *amicus* if the information offered it ‘timely and useful.’” *Avellino v. Herron*, 991 F. Supp. 730, 732 (E.D. Pa. 1998) (quoting *Waste Mgmt. of Pa., Inc. v. City of New York*, 162 F.R.D. 34, 36 (M.D. Pa. 1995)).

Proposed *amici* believe that their brief provides expert analysis and discussion of the major questions doctrine and nondelegation doctrine, particularly as applied to this case. Proposed *amici* submit that the brief will assist the Court in evaluating the questions raised regarding these issues, particularly those concerning the relative novel major questions doctrine.

Proposed *amici* further submit that the brief is timely: it is being submitted only six calendar days after submission of Defendants’ opposition to Plaintiff’s motion, and its consideration will not delay these proceedings.

Counsel for proposed *amici* conferred with counsel for Plaintiff and counsel for Defendants, all of whom indicated that their clients consented to the filing of this brief.

CONCLUSION

Proposed *amici* respectfully request that the Court grant leave to file their proposed brief.

Dated: June 10, 2024

Respectfully submitted,

By: /s/ David S. Cohen

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Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2024, the foregoing was electronically filed with the Clerk of the Court using the ECF system.

/s/ David S. Cohen